

104TH CONGRESS
1ST SESSION

H. R. 1731

To provide for a Federal program of insurance against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 1995

Mrs. MINK of Hawaii introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for a Federal program of insurance against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act shall be cited as the
5 “Earthquake, Volcanic Eruption, and Hurricane Hazards
6 Insurance Act of 1995”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—PARTICIPATION BY STATES IN ADOPTION OF HAZARD
REDUCTION MEASURES

- Sec. 101. Identification of earthquake-prone, volcanic eruption-prone, and hurricane-prone States.
- Sec. 102. Earthquake, Volcanic Eruption, and Hurricane Loss Mitigation Advisory Committee.
- Sec. 103. Establishment of criteria for loss-reduction measures.
- Sec. 104. Self-Sustaining Mitigation Fund.
- Sec. 105. State implementation of loss-reduction measures.
- Sec. 106. Requirement to purchase primary insurance.
- Sec. 107. Effect of noncompliance with State mitigation program.
- Sec. 108. Coordination with other programs.
- Sec. 109. Report to Congress.
- Sec. 110. Regulations.

TITLE II—PRIMARY INSURANCE PROGRAM

- Sec. 201. Basic authority and program organization.
- Sec. 202. Scope of program.
- Sec. 203. Terms and limitations of insurance coverage.
- Sec. 204. Establishment of actuarial premium rates.
- Sec. 205. Chargeable premium rates.
- Sec. 206. Insurance mitigation incentives.
- Sec. 207. Earthquake, Volcanic Eruption, and Hurricane Insurance and Reinsurance Advisory Committee.
- Sec. 208. Residential Property Insurance Fund.
- Sec. 209. Borrowing from Treasury.

TITLE III—NATIONAL EARTHQUAKE, VOLCANIC ERUPTION, AND
HURRICANE EXCESS LOSS REINSURANCE PROGRAM

- Sec. 301. Reinsurance program.
- Sec. 302. Lines of insurance.
- Sec. 303. Rates.
- Sec. 304. Reinsurance contracts.
- Sec. 305. Reinsurance Fund.
- Sec. 306. Borrowing from Treasury.

1 SEC. 2. FINDINGS.

2 The Congress finds that—

- 3 (1) the catastrophic and unpredictable nature
- 4 of earthquakes, volcanic eruptions, and hurricanes
- 5 prevent individual private insurers from offering the
- 6 necessary insurance against these perils without the
- 7 participation of the Federal Government;

1 (2) in the absence of an adequate system for in-
2 suring against losses from earthquakes, volcanic
3 eruptions, and hurricanes, the Federal Government
4 and State governments will bear excessive and avoid-
5 able costs of disaster relief and the commerce and
6 economy of the Nation would be seriously desta-
7 bilized;

8 (3) the existing systems of private insurance,
9 reinsurance, and government disaster relief are inad-
10 equate and should be improved and better coordi-
11 nated;

12 (4) a reasonable method of providing insurance
13 against such losses is to create a Federal earth-
14 quake, volcanic eruption, and hurricane insurance
15 and reinsurance program, to assist in making insur-
16 ance against such disasters widely available and af-
17 fordable to the general public; and

18 (5) in providing such insurance, the Federal
19 Government should work constructively with the
20 States and localities to assist and require, if appro-
21 priate, the development, adoption, and enforcement
22 of hazard reduction measures, including building
23 codes, land-use planning, and strengthening of new
24 and existing structures.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “additional losses” means claim
4 and loss adjustment expense payments for earth-
5 quake, volcanic eruption, and hurricane coverage is-
6 sued pursuant to title II that exceed the accumu-
7 lated amounts in the Residential Property Insurance
8 Fund.

9 (2) The term “alien insurer” means an insurer
10 or reinsurer organized or incorporated in a country
11 other than the United States.

12 (3) The term “critical facilities vulnerable to
13 hurricanes” means schools and structures essential
14 to emergency services necessary for post hurricane
15 recovery (including hospitals, fire and police facili-
16 ties, temporary shelters, and emergency operating
17 and preparedness centers) that—

18 (A) have unreinforced masonry bearing
19 walls, tilt-up construction, nonductile concrete
20 frame construction, or other construction, as
21 determined by the Director, that makes them
22 susceptible to damage from hurricanes; and

23 (B) are located in hurricane zones within
24 hurricane-prone States.

25 (4) The term “Director” means the Director of
26 the Federal Emergency Management Agency.

1 (5) The term “earthquake” means any shaking
2 or trembling of the crust of the earth caused by un-
3 derground seismic forces or by breaking and shifting
4 of rock beneath the surface.

5 (6) The term “earthquake, volcanic eruption,
6 and hurricane coverage” means insurance issued
7 pursuant to title II.

8 (7) The term “earthquake-prone State” means
9 a State determined by the Director pursuant to sec-
10 tion 101 to have an exposure to the earthquake
11 peril.

12 (8) The term “Federal agency” means any de-
13 partment, agency, corporation, or other instrumen-
14 tality of the executive branch of the Federal Govern-
15 ment, and includes the Federal National Mortgage
16 Association and the Federal Home Loan Mortgage
17 Corporation.

18 (9) The term “federally related mortgage loan”
19 has the meaning given the term in section 3(1) of
20 the Real Estate Settlement Procedures Act of 1974,
21 except that the term does not include any loan de-
22 scribed in subparagraph (B)(iv) of such section.

23 (10) The term “fires associated with an earth-
24 quake” means any fire proximately caused by an
25 earthquake.

1 (11) The term “fires associated with a volcanic
2 eruption” means any fire proximately caused by a
3 volcanic eruption.

4 (12) The term “hurricane-prone State” means
5 a State determined by the Director pursuant to sec-
6 tion 101 to have an exposure to hurricane peril.

7 (13) The term “hurricane zone” means an area
8 within a State identified and classified by the Direc-
9 tor under section 101(a) as subject to major hurri-
10 cane risk.

11 (14) The term “Insurance and Reinsurance Ad-
12 visory Committee” means the Earthquake, Volcanic
13 Eruption, and Hurricane Insurance and Reinsurance
14 Advisory Committee established under section 207.

15 (15) The term “Insurance Fund” means the
16 Residential Property Insurance Fund established
17 under section 208.

18 (16) The term “insurance industry” means all
19 private insurers and private reinsurers.

20 (17) The term “large building” means any
21 nonresidential structure that has more than 1 story
22 or more than 5,000 square feet per story.

23 (18) The term “Loss Mitigation Advisory Com-
24 mittee” means the Earthquake, Volcanic Eruption,

1 and Hurricane Loss Mitigation Advisory Committee
2 established under section 102.

3 (19) The term “loss-reduction criteria” means
4 the criteria for earthquake, volcanic eruption, and
5 hurricane loss mitigation established by the Director
6 under section 103.

7 (20) the term “Primary Insurance Program”
8 means the national earthquake, volcanic eruption,
9 and hurricane insurance program under title II.

10 (21) The terms “private insurer” and “private
11 reinsurer” mean any insurer or reinsurer that is (A)
12 licensed or admitted to write property and casualty
13 insurance or reinsurance within a State, or (B) is a
14 branch of an alien insurer or reinsurer that is en-
15 tered through and licensed by a State to conduct in-
16 surance or reinsurance business. In the case of an
17 insurance exchange or group of unincorporated un-
18 derwriters, the term means an underwriting syn-
19 dicate, notwithstanding the licensed or admitted sta-
20 tus of the insurance exchange or group of unincor-
21 porated underwriters.

22 (22) The term “Reinsurance Fund” means the
23 Reinsurance Fund established under section 305.

24 (23) The term “Reinsurance Program” means
25 the national earthquake, volcanic eruption, and hur-

1 ricane excess loss reinsurance program under title
2 III.

3 (24) The term “residential property” means
4 any (A) 1- to 4-family residential structure (includ-
5 ing mobile or manufactured homes) and the personal
6 property therein, and (B) personal property of occu-
7 pants of residential structures (including condomin-
8 iums, cooperatives, and apartment structures).

9 (25) The term “residential property insurance
10 coverage” means policies, riders, or endorsements of
11 insurance that provide indemnity, in whole or in
12 part, for the loss, destruction, or damage of residen-
13 tial property and other eligible property as deter-
14 mined by the Director.

15 (26) The term “seismically hazardous critical
16 facilities” means schools and structures essential to
17 emergency services necessary for post earthquake re-
18 covery (including hospitals, fire and police facilities,
19 temporary shelters, and emergency operating and
20 preparedness centers) that—

21 (A) have unreinforced masonry bearing
22 walls, tilt-up construction, or nonductile con-
23 crete frame construction; and

24 (B) are located in seismic zones within
25 earthquake-prone States.

1 (27) The term “Self-Sustaining Mitigation
2 Fund” means the Fund established under section
3 104.

4 (28) The term “seismic zone” means an area
5 within a State identified and classified by the Direc-
6 tor under section 101(a) as subject to major seismic
7 risk.

8 (29) The term “tsunami” means an ocean wave
9 generated by underwater disturbances in the earth’s
10 crust, primarily earthquakes and submarine volcanic
11 eruptions.

12 (30) The term “volcanic eruption” means the
13 expulsion, as a result of natural causes, of molten
14 rock, rock fragments, gases, ashes, mud, lava flows,
15 and other natural substances through an opening in
16 the crust of the Earth.

17 (31) The term “volcanic eruption-prone State”
18 means a State determined by the Director pursuant
19 to section 101 to have an exposure to the volcanic
20 eruption peril.

21 (32) The term “volcanic zone” means an area
22 within a State identified and classified by the Direc-
23 tor under section 101(a) as subject to major volcanic
24 eruption risk.

1 **TITLE I—PARTICIPATION BY**
2 **STATES IN ADOPTION OF HAZ-**
3 **ARD REDUCTION MEASURES**

4 **SEC. 101. IDENTIFICATION OF EARTHQUAKE-PRONE, VOL-**
5 **CANIC ERUPTION-PRONE, AND HURRICANE-**
6 **PRONE STATES.**

7 (a) INITIAL IDENTIFICATION OF STATES.—The Di-
8 rector, in consultation with the United States Geological
9 Survey, other relevant Federal entities, and seismic, vol-
10 canic, and meteorological experts in the private sector,
11 shall identify States having an exposure to earthquake
12 perils, States having an exposure to volcanic eruption
13 peril, and States having an exposure to hurricane peril,
14 which shall include any State subject to major or moderate
15 seismic, volcanic eruption, or hurricane risk, as appro-
16 priate. The Director shall also identify and establish any
17 areas, within such States, that are subject to major seis-
18 mic, volcanic eruption, or hurricane risk as seismic zones,
19 volcanic zones, or hurricane zones, as appropriate. The Di-
20 rector shall identify such States and zones before the expi-
21 ration of the 1-year period beginning on the date of the
22 enactment of the Earthquake, Volcanic Eruption, and
23 Hurricane Hazards Insurance Act of 1995, and shall
24 cause a listing of such States and zones to be published
25 in the Federal Register and in widely circulated local

1 newspapers in the applicable States before the expiration
2 of such 1-year period.

3 (b) FINAL NOTIFICATION.—Each State identified
4 under subsection (a) shall be considered for purposes of
5 this Act to be an earthquake-prone, volcanic eruption-
6 prone, or hurricane-prone State, as appropriate, upon the
7 expiration of the 6-month period beginning upon the expi-
8 ration of the period under subsection (a). The Director
9 shall notify the chief executive officer of each State identi-
10 fied under subsection (a) in writing, before the expiration
11 of such 6-month period, that the State is an earthquake-
12 prone, volcanic eruption-prone, or hurricane-prone State,
13 as appropriate, for purposes of this Act.

14 (c) ONGOING IDENTIFICATION AND NOTIFICATION.—
15 Based upon any additional seismic, volcanic, and meteoro-
16 logical information that from time to time becomes avail-
17 able, the Director may identify States (not identified
18 under subsection (a)) having an exposure to earthquake,
19 volcanic eruption, or hurricane perils. Any such States
20 shall be considered to be an earthquake-prone, volcanic
21 eruption-prone, or hurricane-prone State, as appropriate,
22 for purposes of this Act upon the notification of the chief
23 executive officer of the State, in writing, of the identifica-
24 tion of the State as such a State.

1 (d) APPEAL.—Any State aggrieved by a final deter-
2 mination as an earthquake-prone, volcanic eruption-prone,
3 or hurricane-prone State pursuant to subsection (b) or (c),
4 may, after exhausting administrative remedies, appeal
5 such determination to any United States district court for
6 a district located within the State, not more than 60 days
7 after receipt of notice of such determination. The scope
8 of review by the court shall be as provided under chapter
9 7 of title 5, United States Code. During the pendency of
10 any such litigation, all determinations of the Director shall
11 be effective and final for the purposes of this title unless
12 stayed by the court for good cause shown.

13 **SEC. 102. EARTHQUAKE, VOLCANIC ERUPTION, AND HURRI-**
14 **CANE LOSS MITIGATION ADVISORY COMMIT-**
15 **TEE.**

16 (a) ESTABLISHMENT.—There is established an inde-
17 pendent advisory committee within the executive branch
18 to be known as the Earthquake, Volcanic Eruption, and
19 Hurricane Loss Mitigation Advisory Committee (in this
20 section referred to as the “Committee”). The Committee,
21 its members, and its functions shall be separate from the
22 Insurance and Reinsurance Advisory Committee estab-
23 lished under section 207. To the extent not contradicted
24 by the provisions of this section, the Committee shall be

1 subject to the provisions of the Federal Advisory Commit-
2 tee Act.

3 (b) MEMBERSHIP.—

4 (1) APPOINTED MEMBERS.—The Committee
5 shall be composed of 7 members appointed by the
6 President, by and with the advice and consent of the
7 Senate. The members shall be chosen from among
8 citizens of the United States who are respected ex-
9 perts in the fields of earthquake, volcanic eruption,
10 and hurricane loss mitigation, who shall include—

11 (A) 1 individual who is employed by a
12 State government as an emergency planner;

13 (B) 1 individual who is knowledgeable re-
14 garding local community building codes;

15 (C) 1 individual who is employed as a seis-
16 mic engineer;

17 (D) 1 individual who is employed as an ex-
18 pert in the field of volcanic eruptions; and

19 (E) 1 individual who is employed as an ex-
20 pert in the field of hurricanes.

21 (2) EX OFFICIO MEMBER.—Notwithstanding
22 paragraph (1), the Chairman of the Insurance and
23 Reinsurance Advisory Committee under section 207
24 shall serve as an ex officio member of the Committee
25 under this section.

1 (c) VACANCIES.—A vacancy in the Committee shall
2 be filled in the manner in which the original appointment
3 was made.

4 (d) CHAIRPERSON.—The President shall designate a
5 chairperson of the Committee from among members se-
6 lected for appointment to the Committee.

7 (e) SELECTION.—Not later than 180 days after the
8 date of the enactment of the Earthquake, Volcanic Erup-
9 tion, and Hurricane Hazards Insurance Act of 1995, the
10 President shall submit to the Senate nominations for ap-
11 pointment to the Committee.

12 (f) FUNCTIONS OF THE COMMITTEE.—The Commit-
13 tee shall review the loss reduction criteria (including the
14 specific loss-reduction measures) established under section
15 103. Not later than 180 days after receiving the draft of
16 the loss-reduction criteria under section 103(a)(3), the
17 Committee shall submit to the Director written comments
18 and recommendations for any changes to the criteria.

19 (g) RESPONSIBILITIES OF DIRECTOR.—The Director
20 shall fully cooperate with the Committee and provide the
21 Committee with access to personnel and information and
22 may request assistance from relevant Federal agencies (in-
23 cluding the National Institute of Standards and Tech-
24 nology) as the Committee considers necessary to carry out
25 its functions.

1 **SEC. 103. ESTABLISHMENT OF CRITERIA FOR LOSS-REDUC-**
2 **TION MEASURES.**

3 (a) DEVELOPMENT OF CRITERIA.—

4 (1) IN GENERAL.—On the basis of research car-
5 ried out under this title, the Director shall develop
6 comprehensive loss-reduction criteria for State and
7 local land use and management ordinances, building
8 codes, and other loss-reduction measures consistent
9 with the requirements under subsection (b). The Di-
10 rector shall periodically update such criteria to re-
11 flect technical advances designed to reduce losses
12 from earthquakes, volcanic eruptions, and hurri-
13 canes.

14 (2) COORDINATION.—The Director shall de-
15 velop the loss-reduction criteria in coordination and
16 consistent with the earthquake hazards reduction
17 program under title I of this Act and the Robert T.
18 Stafford Disaster Relief and Emergency Assistance
19 Act (and Executive Order 12699 of January 5,
20 1990). In developing the loss reduction criteria, the
21 Director shall consult other affected Federal entities
22 (including the National Institute of Standards and
23 Technology), the Building Seismic Safety Council,
24 the Interagency Committee on Seismic Safety in
25 Construction, the National Oceanic and Atmospheric
26 Administration, representatives of State and local

1 governments, regional earthquake, volcanic eruption,
2 and hurricane preparedness organizations, model
3 building code organizations, and insurance industry
4 groups.

5 (3) SUBMISSION OF DRAFT TO ADVISORY COM-
6 MITTEE.—Not later than the expiration of the 9-
7 month period beginning on the date of the enact-
8 ment of the Earthquake, Volcanic Eruption, and
9 Hurricane Hazards Insurance Act of 1995, the Di-
10 rector shall submit a draft of the loss-reduction cri-
11 teria to the Loss Mitigation Advisory Committee es-
12 tablished under section 102. Before issuing any final
13 regulations under paragraph (4), the Director shall
14 consider any recommendations made by such Advi-
15 sory Committee regarding the draft criteria.

16 (4) REGULATIONS.—Not later than the expira-
17 tion of the 18-month period beginning on the date
18 of the enactment of the Earthquake, Volcanic Erup-
19 tion, and Hurricane Hazards Insurance Act of 1995,
20 the Director shall issue regulations establishing the
21 loss-reduction criteria under this section, subject to
22 the provisions of subchapter II of chapter 5 of title
23 5, United States Code. In issuing final regulations
24 under this paragraph, the Director shall cause to be
25 published in the Federal Register a description of

1 any differences between the recommendations of the
2 Loss Mitigation Advisory Committee and the final
3 regulations (including the applicability of loss-reduc-
4 tion measures to States and localities) developed by
5 the Director. The description shall contain, for each
6 such difference, an explanation of why the rec-
7 ommendations of the Advisory Committee were not
8 included in the final regulations.

9 (b) CONTENT OF CRITERIA.—The Federal loss-re-
10 duction criteria established under this section shall include
11 measures for the reduction of losses from future earth-
12 quakes, volcanic eruptions, and hurricanes, as follows:

13 (1) MANDATORY INCLUSION.—The Director
14 shall include in the loss-reduction criteria the follow-
15 ing loss-reduction measures:

16 (A) Minimum seismic and hurricane build-
17 ing standards applicable to new residential
18 property and other buildings located in earth-
19 quake-prone States and hurricane-prone States.

20 (B) Community-based building codes appli-
21 cable to new residential property, which shall
22 meet or exceed any minimum provisions relat-
23 ing to seismic or hurricane hazards contained in
24 (i) the most recent edition of the National
25 Building Code, (ii) the most recent edition of

1 the Standard Building Code, or (iii) the most
2 recent edition of the Uniform Building Code.

3 (2) DISCRETIONARY INCLUSION.—Consistent
4 with reports submitted to Congress pursuant to sec-
5 tion 104(a)(2) of the Earthquake Hazards Reduc-
6 tion Act of 1977 and section 947 of the Cranston-
7 Gonzalez National Affordable Housing Act, the Di-
8 rector shall consider and may include in the loss-re-
9 duction criteria established under this section, any of
10 the following additional loss-reduction measures:

11 (A) Community-based building codes which
12 contain minimum seismic or hurricane provi-
13 sions (including restrictions on new
14 unreinforced masonry construction) for new res-
15 idential property that is located in a seismic or
16 hurricane zone, as appropriate, not currently
17 covered by any of the building codes referred to
18 in paragraph (1)(B) but identified by the Direc-
19 tor as being located in earthquake-prone or hur-
20 ricane-prone States, as appropriate.

21 (B) Geotechnical techniques to minimize
22 the effects of ground failures for new large
23 buildings in high-risk fault, landslide, site am-
24 plification, and liquefaction zones identified in
25 earthquake-prone States and, to the extent

1 practicable and cost-effective, application of the
2 same geotechnical techniques to existing large
3 buildings in the same zones.

4 (C) Measures to control construction of
5 buildings in high-risk fault, landslide, site am-
6 plification, liquefaction zones, and volcanic
7 zones identified in earthquake-prone or volcanic
8 eruption-prone States.

9 (D) To the extent practicable, retrofitting
10 of seismically hazardous critical facilities and
11 critical facilities vulnerable to hurricanes.

12 (E) Securing of building parapets and ex-
13 ternal ornamentations of existing buildings lo-
14 cated in earthquake-prone States or hurricane-
15 prone States.

16 (F) Bracing of gas water heaters and other
17 measures to reduce the risk of earthquake-in-
18 duced fires in residential property located in
19 earthquake-prone States.

20 (G) Inspections before transfer of residen-
21 tial property in earthquake-prone States and
22 hurricane-prone States (and provision to buyers
23 of inspection reports) regarding the adequacy of
24 the anchoring of the residential structure to the
25 foundation, the presence of unbraced or braced

1 cripple walls for woodframe structures, and the
2 bracing of gas water heaters to the walls for all
3 structures, as appropriate based on risk of
4 damage by earthquakes or hurricanes.

5 (3) RECOMMENDED MEASURES.—The Director
6 may recommend, in the loss-reduction criteria, any
7 of the following earthquake and hurricane prepared-
8 ness and planning measures:

9 (A) Expanded research and development
10 by the National Institute of Standards and
11 Technology and other government and private
12 sector entities of new cost-effective building
13 technologies for new construction and retro-
14 fitting of existing buildings.

15 (B) Educational and promotional cam-
16 paigns to encourage additional voluntary miti-
17 gation.

18 (C) Reward-based fiscal incentives, such as
19 lower property tax assessments, no reassess-
20 ments for retrofitting which results in increased
21 property values, or other tax incentives to en-
22 courage use of state-of-the-art mitigation tech-
23 nology.

24 (D) State or community-based efforts to
25 assist low- and moderate-income households to

1 purchase needed earthquake, volcanic eruption,
2 or hurricane insurance and to adopt cost-effective
3 loss-reduction measures.

4 (E) Improvements in long-term earthquake
5 and hurricane construction practices, including
6 the training and licensing of earthquake and
7 hurricane design professionals as well as public
8 and private building inspectors.

9 (F) Institutional support, training in
10 earthquake and hurricane engineering technology
11 and other disciplines, and staffing to ensure
12 compliance with the community-based
13 building codes.

14 (G) Minimizing damage to public utilities,
15 including sewer, gas, electrical and water systems,
16 and other lifelines.

17 (c) STANDARD.—Any mitigation measures included
18 in the loss-reduction criteria established under this section
19 shall be practical, cost-effective, workable, and directly related
20 to the risk of loss from earthquakes, volcanic eruptions,
21 or hurricanes in areas where residential property is
22 located.

23 (d) TECHNICAL ASSISTANCE.—The Director, in consultation
24 with the National Institute of Standards and
25 Technology, shall coordinate with and provide technical

1 assistance to States, interstate, and local officials and
2 agencies to encourage adoption and enforcement of State
3 and local actions that incorporate and support the loss-
4 reduction measures and preparedness goals developed by
5 the Director under this section.

6 **SEC. 104. SELF-SUSTAINING MITIGATION FUND.**

7 (a) IN GENERAL.—A percentage of the annual earth-
8 quake, volcanic eruption, and hurricane insurance and ex-
9 cess reinsurance premiums collected under the Primary
10 Insurance program under title II, as the Director shall
11 designate, shall be deposited in a separate fund to be
12 known as the Self-Sustaining Mitigation Fund. The per-
13 centage may not exceed 5 percent, unless the Director de-
14 termines that the amounts in the Insurance Fund are suf-
15 ficient to provide for any probable expected losses from
16 future earthquakes, volcanic eruptions, or hurricanes. In-
17 terest on amounts in the Fund shall be credited to the
18 Fund.

19 (b) USE.—Amounts in the Self-Sustaining Mitigation
20 Fund shall be available, to the extent provided in appro-
21 priations Acts, to the Director to provide assistance to
22 support the earthquake, volcanic eruption, and hurricane
23 hazard reduction activities, as follows:

24 (1) Assistance to States under section 105(c).

(2) Assistance to provide earthquake, volcanic eruption, and hurricane education pursuant to subsection (c).

(3) Assistance for research and development supported by the National Institute of Standards and Technology on construction techniques to reduce costs of new construction and retrofitting of existing buildings.

(4) Low-interest loans or grants for the retrofitting of seismically hazardous critical facilities and critical facilities vulnerable to hurricanes.

(c) EDUCATION PROGRAM.—In coordination with the educational programs authorized under title I, the Director shall provide assistance under this section to support programs educating the general public on the national dimensions of the seismic, volcanic eruption, and hurricane risk and on methods for homeowners to reduce the hazards resulting from future earthquakes and hurricanes.

19 **SEC. 105. STATE IMPLEMENTATION OF LOSS-REDUCTION**
20 **MEASURES.**

(a) DEFINITION OF COMPLIANCE STATE.—An earth-quake-prone, volcanic eruption-prone, or hurricane-prone State shall be considered a compliance State for purposes of this title if—

1 (1) before the expiration of the 2-year period
2 beginning upon the promulgation of final regulations
3 under section 103 establishing loss-reduction cri-
4 teria—

5 (A) the counties and municipalities located
6 in all seismic, volcanic, and hurricane zones
7 within the State have adopted and are enforcing
8 minimum applicable mitigation measures re-
9 quired under the loss-reduction criteria; and

10 (B) the chief executive officer of the State
11 has designated an administrative authority to
12 coordinate the development and enforcement of
13 earthquake, volcanic eruption, and hurricane
14 implementation plans for the State, which plans
15 are equivalent to or exceed the loss-reduction
16 criteria; and

17 (2) the State is certified under section 105(b)
18 as a compliance State.

19 (b) DETERMINATION OF COMPLIANCE.—

20 (1) STATE SUBMISSION OF CERTIFICATION.—
21 Before the expiration of the 2-year period referred
22 to in subsection (a)(1), each earthquake-prone, vol-
23 canic eruption-prone, or hurricane-prone State shall
24 submit a certification to the Director stating wheth-
25 er the State has substantially adopted and is sub-

1 stantially enforcing the applicable mitigation meas-
2 ures under the loss-reduction criteria. In providing
3 such certification, each State may consult with rel-
4 evant private-sector accreditation and rating organi-
5 zations approved by the Director. The Director shall
6 issue regulations not later than 18 months after the
7 date of the enactment of the Earthquake, Volcanic
8 Eruption, and Hurricane Hazards Insurance Act of
9 1995 describing the criteria to be used in making
10 and reviewing such State certifications.

11 (2) REVIEW BY DIRECTOR.—The Director shall
12 review each certification submitted under paragraph
13 (1) to determine whether it is an accurate mani-
14 festation of the submitting State's substantial com-
15 pliance with, and enforcement of, the applicable
16 mitigation measures under the loss-reduction cri-
17 teria. If the Director determines that the State cer-
18 tification is substantially accurate and the State has
19 adopted and is enforcing the applicable mitigation
20 measures, the Director shall certify the State for
21 purposes of subsection (a). Using the criteria estab-
22 lished under paragraph (1), the Director shall review
23 the compliance with, and enforcement of, the appli-
24 cable mitigation measures by each compliance State
25 meeting the requirements of subsection (a) not less

1 than once every 2 years and shall renew compliance
2 certificates as appropriate.

3 (3) NONCOMPLIANCE STATES.—If an earth-
4 quake-prone, volcanic eruption-prone, or hurricane-
5 prone State fails to submit a certification under
6 paragraph (1) or the Director determines under
7 paragraph (1) or (2) that the State has submitted
8 an inaccurate certification, has not adopted or en-
9 forced minimum applicable mitigation measures, or
10 has failed to have its compliance certification re-
11 newed, the Director shall certify the State as a non-
12 compliance State for purposes of this title and shall
13 promptly prepare and publish proposed regulations
14 setting forth the minimum mitigation measures ap-
15 plicable to the State.

16 (4) REVIEW OF NONCOMPLIANCE.—A State cer-
17 tified as a noncompliance State pursuant to para-
18 graph (3) may at any time after such certification
19 request the Director to revoke its noncompliance cer-
20 tification and to certify the State pursuant to para-
21 graph (2).

22 (c) ASSISTANCE TO PROMOTE COMPLIANCE.—The
23 Director shall provide assistance to each compliance State
24 from amounts in the Self-Sustaining Mitigation Fund
25 under section 104, to the extent that amounts for such

1 assistance are made available under appropriations Acts.
2 The amount of such assistance provided to each State
3 shall be based on the State's need for hazard reduction
4 as measured by the State's lack of preparedness efforts,
5 the amount of earthquake, volcanic eruption, and hurri-
6 cane insurance premiums collected in that State under the
7 Primary Insurance Program, and the State's risk of fu-
8 ture earthquakes, volcanic eruptions, and hurricanes. Such
9 financial assistance shall be used to support the State's
10 development and implementation of its mitigation plan, in-
11 cluding education, enforcement, and mitigation economic
12 incentives, such as low-interest loans for seismic retro-
13 fitting.

14 **SEC. 106. REQUIREMENT TO PURCHASE PRIMARY**
15 **INSURANCE.**

16 (a) CONNECTION TO FEDERALLY RELATED MORT-
17 GAGE LOANS.—After the expiration of the 2-year period
18 beginning upon the promulgation of final regulations
19 under section 103 establishing loss-reduction criteria, no
20 federally related mortgage loan secured by residential
21 property located in an earthquake-prone, volcanic erup-
22 tion-prone, or hurricane-prone State may be made, in-
23 creased, extended, or renewed unless the property securing
24 the loan is covered by earthquake, volcanic eruption, and
25 hurricane insurance coverage available under title II or

1 equivalent insurance from a private insurer, in the amount
2 required under section 203(a)(6). The Director shall de-
3 termine, in cooperation with the appropriate Federal agen-
4 cies, the methods by which such mortgagors shall be re-
5 quired to present proof that they have obtained an insur-
6 ance policy consistent with the provisions of this title.

7 (b) EXEMPTION FOR STATE PROPERTIES.—Notwith-
8 standing the other provisions of this section, earthquake,
9 volcanic eruption, and hurricane insurance coverage shall
10 not be required on any State-owned property that is cov-
11 ered under a State policy of self-insurance adequate in the
12 determination of the Director. The Director shall publish
13 and periodically revise a list of States to which this sub-
14 section applies.

15 **SEC. 107. EFFECT OF NONCOMPLIANCE WITH STATE MITI-**
16 **GATION PROGRAM.**

17 Each Federal agency or instrumentality responsible
18 for the supervision, approval, regulation, or insuring any
19 banks, savings and loans associations, or similar institu-
20 tions shall, by regulation, prohibit such institutions from
21 making, increasing, extending, or renewing a federally re-
22 lated mortgage loan secured by improved real estate or
23 a mobile home located or to be located in an earthquake-
24 prone, volcanic eruption-prone, or hurricane-prone State,
25 if—

1 (1) the State has been determined to be a non-
2 compliance State pursuant to section 105; and

3 (2) a presale inspection of the property securing
4 the loan—

5 (A) indicates that the property does not
6 meet the minimum mitigation measures applica-
7 ble to the property under the loss-reduction cri-
8 teria; or

9 (B) has not been conducted.

10 **SEC. 108. COORDINATION WITH OTHER PROGRAMS.**

11 In carrying out this Act, the Director shall consult
12 with other departments and agencies of the Federal Gov-
13 ernment, and with interstate, State, and local agencies
14 having responsibilities regarding earthquakes, volcanic
15 eruptions, and hurricanes to ensure that the programs of
16 such agencies and the Primary Insurance Program under
17 title II are mutually consistent.

18 **SEC. 109. REPORT TO CONGRESS.**

19 The Director shall submit an annual report under
20 this section to the Congress, within 90 days after the end
21 of each fiscal year. The report shall describe the activities
22 carried out under this title and evaluate any progress
23 achieved in such activities during the preceding fiscal year.

1 **SEC. 110. REGULATIONS.**

2 (a) DIRECTOR.—The Director may issue any regula-
3 tions necessary to carry out this Act, pursuant to the pro-
4 visions of subchapter II of chapter 5 of title 5, United
5 States Code.

6 (b) FEDERAL AGENCIES.—Each Federal agency or
7 instrumentality responsible for the supervision, approval,
8 regulation, or insuring of banks, savings and loan associa-
9 tions, or similar institutions, shall, in cooperation with the
10 Director, issue any regulations necessary to implement the
11 responsibilities of such agency under this Act, pursuant
12 to the provisions of subchapter II of chapter 5 of title 5,
13 United States Code.

14 **TITLE II—PRIMARY INSURANCE**
15 **PROGRAM**

16 **SEC. 201. BASIC AUTHORITY AND PROGRAM ORGANIZA-**
17 **TION.**

18 (a) ESTABLISHMENT.—To carry out the purposes of
19 this Act, the Director shall establish and carry out a na-
20 tional earthquake, volcanic eruption, and hurricane insur-
21 ance program to provide insurance against loss resulting
22 from physical damage to or loss of real property or per-
23 sonal property related thereto, in the United States, aris-
24 ing from any earthquake, volcanic eruption, or hurricane,
25 including any fire associated with a volcanic eruption.

1 (b) IMPLEMENTATION.—In carrying out the Primary
2 Insurance Program under this title, the Director shall ar-
3 range for participation, on other than a risk-sharing basis,
4 by private insurers, insurance agents and brokers, insur-
5 ance adjustment organizations, and other persons. The
6 Director may take any actions reasonably necessary and
7 appropriate to carry out this title, including the making
8 of contracts, the employment and compensation of per-
9 sons, and the acquisition of real and personal property.

10 (c) INSURANCE PRACTICES.—Any actions of the Di-
11 rector under this title shall be consistent with standard
12 insurance practices and generally accepted accounting, ac-
13 tuarial, and underwriting principles.

14 (d) SUITS.—Any lawsuits by or against the Director
15 (or employees of the Federal Emergency Management
16 Agency) in connection with activities under this title shall
17 be brought in the district court of the United States with
18 jurisdiction over the action, except that any action by an
19 insurer or reinsurer against the Director (or employees of
20 the Federal Emergency Management Agency) shall be
21 brought in the United States District Court for the
22 District of Columbia.

23 (e) PLAN OF OPERATION.—

24 (1) DEVELOPMENT.—The Director shall de-
25 velop a plan of operation under this subsection to

1 ensure the fair, reasonable, and equitable adminis-
2 tration of the Insurance Fund, the Reinsurance
3 Fund, and other activities under this title and title
4 III.

5 (2) CONTENTS.—The plan of operation shall set
6 forth the specific policy and programmatic details
7 for operating the Primary Insurance Program and
8 the Reinsurance Program, and shall include—

9 (A) all guidelines, criteria, definitions,
10 clarifications, and procedures necessary to carry
11 out this title;

12 (B) procedures for implementing the miti-
13 gation incentives under section 206; and

14 (C) standards for insurers to retain ex-
15 pense allowances from premiums collected
16 under this title.

17 (3) STUDY OF LOW-INCOME RATES.—In devel-
18 oping the plan of operation, the Director shall con-
19 sider options for charging less than actuarial rates
20 for residential property occupied by low-income pol-
21 icyholders and may include in the plan any such op-
22 tion the Director considers necessary, appropriate,
23 and practicable, subject to the requirements under
24 section 205(c).

25 (4) ESTABLISHMENT.—

1 (A) SUBMISSION OF DRAFT TO ADVISORY
2 COMMITTEE.—Not later than the expiration of
3 the 12-month period beginning on the date of
4 the enactment of the Earthquake, Volcanic
5 Eruption, and Hurricane Hazards Insurance
6 Act of 1995, the Director shall submit a draft
7 of the plan of operation to the Insurance and
8 Reinsurance Advisory Committee established
9 under section 207. Before issuing any proposed
10 regulations under subparagraph (B), the Direc-
11 tor shall consider any recommendations made
12 by such Advisory Committee regarding the
13 draft plan of operation.

14 (B) PROPOSED REGULATIONS.—Not later
15 than the expiration of the 18-month period be-
16 ginning on the date of the enactment of the
17 Earthquake, Volcanic Eruption, and Hurricane
18 Hazards Insurance Act of 1995, the Director
19 shall issue proposed regulations establishing the
20 plan of operation under this section, subject to
21 the provisions of subchapter II of chapter 5 of
22 title 5, United States Code. In issuing proposed
23 regulations under this paragraph, the Director
24 shall cause to be published in the Federal Reg-
25 ister a description of any differences between

1 the recommendations of the Insurance and Re-
2 insurance Advisory Committee and the final
3 regulations (including the guidelines, criteria,
4 definitions, clarifications, and procedures under
5 the plan) developed by the Director. The de-
6 scription shall contain, for each such difference,
7 an explanation of why the recommendations of
8 the Advisory Committee were not included in
9 the proposed regulations.

10 (C) COMMENTS.—After the regulations
11 have been issued under subparagraph (B), the
12 Director shall request comments from the In-
13 surance and Reinsurance Advisory Committee
14 regarding any changes to the regulations.

15 (D) SUBSEQUENT CHANGES.—Any
16 changes to the plan of operation contained in
17 final regulations shall be made pursuant to reg-
18 ulations issued in the manner provided in sub-
19 paragraphs (B) and (C).

20 **SEC. 202. SCOPE OF PROGRAM.**

21 (a) RESIDENTIAL PROPERTIES.—In carrying out the
22 Primary Insurance Program, the Director shall make
23 earthquake, volcanic eruption, and hurricane coverage
24 available only for residential property. The Director shall
25 make such coverage available in earthquake-prone States,

1 volcanic eruption-prone States, and hurricane-prone
2 States.

3 (b) ADDITIONAL TYPES OF PROPERTIES.—If, on the
4 basis of studies and investigations undertaken and carried
5 out and information received or exchanged under section
6 204, and such other information as may be necessary, the
7 Director determines that it would be feasible to extend the
8 Primary Insurance Program to cover other properties, the
9 Director may recommend to Congress that earthquake,
10 volcanic eruption, and hurricane coverage under this title
11 be made available to cover any types and classes of—

- 12 (1) other properties in residential areas;
- 13 (2) small business properties that are owned or
14 leased and operated by small business concerns;
- 15 (3) religious properties;
- 16 (4) agricultural properties;
- 17 (5) properties occupied by primary nonprofit or-
18 ganizations; and
- 19 (6) properties owned by State and local govern-
20 ments and agencies thereof.

21 **SEC. 203. TERMS AND LIMITATIONS OF INSURANCE COV-**
22 **ERAGE.**

23 (a) TERMS.—Pursuant to the plan of operation es-
24 tablished under section 201 and after consultation with
25 the Insurance and Reinsurance Advisory Committee, the

1 Director shall establish, by regulation, the general terms
2 and conditions of insurability for properties eligible for
3 residential property insurance coverage under section 202.
4 Such regulations shall meet the requirements of this sec-
5 tion and may include—

6 (1) the type and locational classification of such
7 eligible properties;

8 (2) the nature of damage that may be covered
9 by such insurance;

10 (3) appropriate minimum premiums;

11 (4) appropriate loss-deductibles including vari-
12 able deductibles based on the existence of loss-reduc-
13 ing measures that affect the risk of loss;

14 (5) appropriate limits on coverage for each clas-
15 sification of eligible properties;

16 (6) appropriate minimum coverage amounts
17 pursuant to section 106(a) for each classification of
18 eligible properties, which may not be less than the
19 outstanding principal balance of the mortgage loan
20 securing the property or the maximum coverage
21 limit for the property under paragraph (5), which-
22 ever is less; and

23 (7) any other terms and limitations relating to
24 such residential property insurance coverage that

1 may be necessary to carry out the purposes of this
2 title.

3 (b) LIMITATIONS.—Earthquake, volcanic eruption,
4 and hurricane coverage under this title shall cover—

5 (1) any damage to covered eligible property
6 proximately caused by—

7 (A) an earthquake, volcanic eruption, or
8 hurricane;

9 (B) a tsunami associated with an earth-
10 quake, volcanic eruption, or hurricane;

11 (C) a fire associated with a volcanic erup-
12 tion; and

13 (2) coverage for debris removal and additional
14 living expenses incurred as a result of direct damage
15 to the premises by—

16 (A) earthquake, volcanic eruption, or hur-
17 ricane;

18 (B) a tsunami associated with an earth-
19 quake, volcanic eruption, or hurricane; and

20 (C) a fire associated with a volcanic erup-
21 tion.

22 The coverage shall not include coverage for any fires asso-
23 ciated with an earthquake.

24 (c) ELIGIBILITY OF COVERAGE.—Any private insurer
25 issuing residential property insurance coverage in any

1 earthquake-prone, volcanic eruption-prone, or hurricane-
2 prone State may provide the coverage under this title, on
3 behalf of the Federal Government, to residential property
4 policyholders of the insurer. Any private insurer electing
5 to participate in the Primary Insurance Program shall
6 make coverage available to all residential property policy-
7 holders of the insurer in earthquake-prone, volcanic erup-
8 tion-prone, or hurricane-prone States. Any private insurer
9 electing to purchase the excess reinsurance coverage pur-
10 suant to title III shall make the coverage available, on be-
11 half of the Federal Government, or at equivalent coverage
12 and rates on their own behalf, to all residential property
13 policyholders of the insurer.

14 **SEC. 204. ESTABLISHMENT OF ACTUARIAL PREMIUM**
15 **RATES.**

16 (a) STUDIES AND ESTABLISHMENT OF RATES.—The
17 Director may undertake and carry out such studies and
18 investigations and receive and exchange such information
19 as may be necessary to establish, and shall from time to
20 time establish and prescribe, by regulation, on a State,
21 territorial, or other appropriate basis, actuarial premium
22 rates for types of classes of property eligible for residential
23 property insurance coverage and the terms and conditions
24 under which such rates apply.

1 (b) ARRANGEMENTS FOR SERVICES.—In carrying out
2 such studies, the Director shall consult with the Loss Mit-
3 gation Advisory Committee and the Insurance and Rein-
4 surance Advisory Committee and may enter into contracts,
5 agreements, or other arrangements to utilize the services
6 of the United States Geological Survey and other relevant
7 Federal, State, and local governmental agencies, and other
8 persons.

9 (c) CONSIDERATIONS.—The Director shall establish
10 actuarial rates under this section based on—

11 (1) considerations of the risks involved, includ-
12 ing—

13 (A) the severity and frequency of earth-
14 quakes by seismic zone and States in which the
15 insured property is located, including known
16 differences in risks from active faults and
17 known susceptibility to landslide, site amplifi-
18 cation, and liquefaction;

19 (B) the risk of damage associated with a
20 volcanic eruption by volcanic zone and States in
21 which the insured property is located, including
22 proximity to known lava flows;

23 (C) the severity and frequency of hurri-
24 canes by hurricane zone and States in which
25 the insured property is located;

1 (D) the value of the insured property;

2 (E) the age of the structures located on
3 the insured property;

4 (F) the construction type of the structures
5 located on the insured property, including
6 woodframe, masonry, and masonry veneer;

7 (G) the architectural type of the structures
8 located on the insured property, including soft
9 first floor, box construction, and split level;

10 (H) earthquake or hurricane loss-reduction
11 measures, including measures described in sec-
12 tion 103, followed in the construction or subse-
13 quent retrofitting of residential property struc-
14 tures; and

15 (I) any other relevant criteria; and

16 (2) application of accepted actuarial and rate-
17 making principles that reflect the risks involved, an-
18 ticipated insurance related administrative and oper-
19 ating costs and loss and loss-adjustment expense
20 payments, and provide for adequate reserves.

21 (d) LIMITATION.—Any rate classification system
22 used by the Director to establish actuarial rates under this
23 section shall be cost-effective and shall not impose costs
24 for the initial establishment or the subsequent administra-

1 tion of the rate plan that are disproportionate to the size
2 of the insurance premiums.

3 **SEC. 205. CHARGEABLE PREMIUM RATES.**

4 (a) ESTABLISHMENT.—On the basis of actuarial
5 rates established under section 204 and such other infor-
6 mation as may be necessary, the Director shall from time
7 to time, and after consultation with the Loss Mitigation
8 Advisory Committee and the Insurance and Reinsurance
9 Advisory Committee, establish and prescribe, by regula-
10 tion—

11 (1) chargeable premium rates for any types and
12 classes of properties eligible for earthquake, volcanic
13 eruption, and hurricane coverage; and

14 (2) the terms and conditions under which such
15 rates shall apply.

16 (b) MINIMIZATION OF CROSS-SUBSIDIZATION.—To
17 the maximum extent practicable, such chargeable rates
18 shall be actuarial rates over an extended period of time
19 and shall result in a minimum of cross-subsidization by
20 reasonably reflecting the risk of damaging earthquakes,
21 volcanic eruptions, and hurricanes in total and for each
22 subclassification of policyholders. In setting and adjusting
23 chargeable rates under this section, the Director shall pro-
24 vide that, over an extended period of time, expected ex-
25 penditures from the Insurance Fund under section 208(c)

1 do not exceed expected receipts of the Fund under section
2 208(b).

3 (c) LOW-INCOME RATES AND MITIGATION INCEN-
4 TIVES.—The Director may, pursuant to the plan of oper-
5 ation under section 201, establish chargeable rates under
6 this section for (1) residential property occupied by low-
7 income residents, and (2) residential properties described
8 in section 206(4), that are less than the actuarial rates
9 established under section 204, but only to the extent that
10 such rates do not prevent compliance with the last sen-
11 tence of subsection (b).

12 **SEC. 206. INSURANCE MITIGATION INCENTIVES.**

13 In carrying out the Primary Insurance Program
14 under this title pursuant to the plan of operation, the Di-
15 rector shall provide for the following insurance mitigation
16 incentives:

17 (1) Charging lower deductible amounts for any
18 residential property meeting the seismic and hurri-
19 cane building standards under the loss-reduction cri-
20 teria.

21 (2) Requiring under earthquake, volcanic erup-
22 tion, and hurricane coverage that repairs to residen-
23 tial property sustaining earthquake damage in ex-
24 cess of the deductible include, at a minimum, an-

1 choring the dwelling to the foundation and the addi-
2 tion of bracing to cripple walls.

3 (3) Requiring under earthquake, volcanic erup-
4 tion, and hurricane coverage that repairs to residen-
5 tial property sustaining hurricane damage in excess
6 of the deductible include such structural or other re-
7 pairs as the Director considers appropriate to miti-
8 gate against future hurricane damage.

9 (4) Requiring under earthquake, volcanic erup-
10 tion, and hurricane coverage that residential prop-
11 erty suffering damage in an amount greater than 50
12 percent of the replacement value of the property
13 shall be rebuilt to at least the minimum standards
14 under the loss-reduction criteria under section 103
15 and applicable to the State.

16 (5) Charging lower premiums or deductible
17 amounts for any residential property located in a
18 seismic zone in an earthquake-prone State, or in a
19 hurricane zone in a hurricane-prone State that
20 passes an earthquake or hurricane inspection that is
21 required as a condition of sale, paid for by the seller,
22 and meets the requirements of section 103(b)(2)(G).

23 (6) Charging lower premiums or deductible
24 amounts for new residential property not con-

1 structured in volcanic zones in a volcanic eruption-
2 prone State.

3 **SEC. 207. EARTHQUAKE, VOLCANIC ERUPTION, AND HURRI-**
4 **CANE INSURANCE AND REINSURANCE ADVI-**
5 **SORY COMMITTEE.**

6 (a) ESTABLISHMENT.—There is established an inde-
7 pendent advisory committee within the executive branch
8 to be known as the Earthquake, Volcanic Eruption, and
9 Hurricane Insurance and Reinsurance Advisory Commit-
10 tee (in this section referred to as the “Committee”). The
11 Committee, its members, and its functions shall be sepa-
12 rate from the Loss Mitigation Advisory Committee estab-
13 lished under section 102. To the extent not contradicted
14 by the provisions of this section, the Committee shall be
15 subject to the provisions of the Federal Advisory Commit-
16 tee Act.

17 (b) MEMBERSHIP.—

18 (1) APPOINTED MEMBERS.—The Committee
19 shall be composed of 5 members appointed by the
20 President, by and with the advice and consent of the
21 Senate. The members shall be chosen from among
22 citizens of the United States and shall include—

23 (A) 2 individuals who represent the inter-
24 ests of private insurers;

1 (B) 1 individual who represents the inter-
2 ests of private reinsurers;

3 (C) 1 individual who represents the inter-
4 ests of insurance agents; and

5 (D) 1 individual who is a State insurance
6 regulator.

7 (2) EX OFFICIO MEMBER.—Notwithstanding
8 paragraph (1), the Chairman of the Loss Mitigation
9 Advisory Committee under section 102 shall serve as
10 an ex officio member of the Committee under this
11 section.

12 (c) VACANCIES.—A vacancy in the Commission shall
13 be filled in the manner in which the original appointment
14 was made.

15 (d) CHAIRMAN.—The President shall designate a
16 chairman of the Committee from among members selected
17 for appointment to the Committee.

18 (e) SELECTION.—Not later than 180 days after the
19 date of the enactment of the Earthquake, Volcanic Erup-
20 tion, and Hurricane Hazards Insurance Act of 1995, the
21 President shall submit to the Senate nominations for
22 appointment to the Committee.

23 (f) FUNCTIONS OF THE COMMITTEE.—The Commit-
24 tee shall review the draft plan of operation established
25 under section 201. Within 120 days after receiving the

1 draft plan of operation, the Committee shall submit to the
2 Director written comments and recommendations for any
3 changes to the plan. After final regulations establishing
4 the plan of operation have been issued, the Committee
5 shall submit a written report not less than once every 180
6 days to the Director and the Congress evaluating the oper-
7 ation of the Federal earthquake, volcanic eruption, and
8 hurricane insurance and reinsurance programs under this
9 title and making recommendations for any actions relating
10 to such programs. The Committee shall respond as soon
11 as practicable to all requests of the Director made pursu-
12 ant to subsection (g) or section 201(e)(4)(C).

13 (g) RESPONSIBILITIES OF THE DIRECTOR.—The Di-
14 rector shall fully cooperate with the Committee and pro-
15 vide the Committee with access to personnel and informa-
16 tion as the Committee considers necessary to carry out
17 its functions. The Director shall request comments from
18 the Committee on any questions regarding operation of
19 the Federal earthquake, volcanic eruption, and hurricane
20 insurance and reinsurance programs established under
21 this title.

22 **SEC. 208. RESIDENTIAL PROPERTY INSURANCE FUND.**

23 (a) ESTABLISHMENT.—There is established in the
24 Treasury of the United States the Residential Property

1 Insurance Fund for the purpose of carrying out the
2 Primary Insurance Program under this title.

3 (b) CREDITS OF FUND.—The Insurance Fund shall
4 be credited with—

5 (1) insurance premiums received by the Direc-
6 tor under the Primary Insurance Program (less any
7 amounts credited to the Self-Sustaining Mitigation
8 Fund under section 104) and interest earned on pre-
9 miums, as provided in subsection (e) of this section;

10 (2) any amounts borrowed under section 209;

11 (3) any amounts appropriated to the Insurance
12 Fund; and

13 (4) any interest earned on amounts invested
14 under subsection (d).

15 (c) USES OF FUND.—Amounts in the Insurance
16 Fund shall be available for—

17 (1) payments for losses and loss adjustment ex-
18 penses under subsection (f);

19 (2) payments for insurance company expense
20 allowances paid (including agents' commissions,
21 State premium taxes, and companies' administration
22 expenses);

23 (3) administrative expenses of the Primary In-
24 surance Program; and

1 (4) interest payments on amounts borrowed
2 under section 209 for additional losses, if any.

3 (d) INVESTMENT OF AMOUNTS.—The Director may
4 request the Secretary of Treasury to invest any amount
5 in the Residential Property Insurance Fund in obligations
6 issued or guaranteed by the United States, as the Director
7 considers appropriate.

8 (e) INSURANCE PAYMENTS TO FUND.—Private insur-
9 ers issuing earthquake, volcanic eruption, and hurricane
10 insurance coverage shall remit the premiums collected, less
11 the insurers' expense allowances (as provided for in the
12 plan of operation), to the Director on a quarterly basis
13 30 days after the end of the quarter, according to the pro-
14 cedures prescribed in the plan of operation. Such private
15 insurers shall maintain a separate, interest-bearing ac-
16 count for the premiums to be submitted to the Director.
17 The interest collected on this account shall be forwarded
18 to the Residential Property Insurance Fund with the
19 premiums on a quarterly basis.

20 (f) REIMBURSEMENT OF INSURERS.—

21 (1) REQUIREMENT AND PROCEDURE.—The Di-
22 rector shall reimburse private insurers providing
23 earthquake, volcanic eruption, and hurricane insur-
24 ance coverage pursuant to this title from amounts
25 made available from the Insurance Fund. Reim-

1 bursement for all claim payments up to and includ-
2 ing the policy limits of coverage and for all loss ad-
3 justment expenses paid as a result of earthquake,
4 volcanic eruption, and hurricane shall be made as
5 follows:

6 (A) The Director shall reimburse insurers
7 for all claim payments and loss adjustment ex-
8 pense payments made pursuant to the Federal
9 Government's obligations. To the extent that
10 reimbursement is obtained by private insurers
11 for losses also covered under the Reinsurance
12 Program, the insurer shall reimburse the Resi-
13 dential Property Insurance Fund accordingly.

14 (B) If the gross reimbursements exceed
15 amounts available in the Residential Property
16 Insurance Fund, a combination of amounts bor-
17 rowed from the industry under subparagraph
18 (C) and amounts borrowed from the Treasury
19 of the United States under section 209 shall
20 cover the additional losses.

21 (C) The industry share under subpara-
22 graph (B) shall be equivalent to 10 percent of
23 the additional losses. Private insurers issuing
24 earthquake, volcanic eruption, and hurricane
25 coverage shall be assessed for the industry par-

1 ticipation in the additional losses based upon
2 the proportion that each insurer's written pre-
3 miums for this coverage in each State in which
4 the earthquake, volcanic eruption, or hurricane
5 events occurred bear to the total written pre-
6 miums for such coverage from all insurers in
7 each State in which the same events occurred,
8 based on the most recently published annual re-
9 port of the Federal Emergency Management
10 Agency. Assessments under this subparagraph
11 may be reinsured under title III.

12 (2) REGULATIONS.—The Director may issue
13 regulations establishing the general method or meth-
14 ods by which proved and approved claims for losses
15 may be adjusted and paid for damages covered by
16 the earthquake, volcanic eruption, and hurricane
17 coverage issued under this title. The claim practices
18 of the Insurance Fund shall be subject to and con-
19 form with any applicable State insurance unfair
20 trade practices statutes. Judicial review of a decision
21 of the Director regarding reimbursement of a private
22 insurer shall be available pursuant to section 201(d).

23 (g) OBLIGATIONS.—All earthquake, volcanic erup-
24 tion, and hurricane insurance coverage provided through
25 the Primary Insurance Program under this title shall con-

1 stitute obligations, in accordance with the provisions of
2 this title, of the United States. The full faith and credit
3 of the United States is pledged for the full payment and
4 performance of such obligations, subject to the provisions
5 of subsection (f)(1)(C). The private insurers participating
6 in the program shall bear no risk and shall assume no
7 liability for the earthquake, volcanic eruption, and hurri-
8 cane coverage provided through the program except as
9 provided in subsection (f)(1)(C).

10 (h) STATUS OF FUND.—Any premiums collected for
11 deposit in the Insurance Fund shall be exempt from all
12 taxation now or hereafter imposed by the United States,
13 by any territory, dependency or possession thereof, or by
14 the State, county, municipality, or local taxing authority,
15 except that the insurance policies issued by or in conjunc-
16 tion with the Federal Government pursuant to this title
17 shall be subject, where applicable, to State insurance pre-
18 mium taxes.

19 **SEC. 209. BORROWING FROM TREASURY.**

20 (a) AUTHORITY.—To the extent that the accumulated
21 assets, including any return on investments, in the Resi-
22 dential Property Insurance Fund are insufficient to pay
23 claims and expenses, the Director shall issue, from time
24 to time, to the Secretary of the Treasury, notes and other
25 obligations to cover the insufficiency; except that the

1 amounts of such obligations outstanding at any one time
2 shall not exceed—

3 (1) \$25,000,000,000 (or such greater amount
4 as may be approved by the President); and

5 (2) such sums as the Congress may provide act-
6 ing upon the recommendation of the Director.

7 (b) INTEREST RATE.—Obligations under subsection
8 (a) shall bear interest at a rate determined by the Sec-
9 retary of the Treasury, taking into consideration the cur-
10 rent average market yield on outstanding marketable obli-
11 gations of the United States of comparable maturities.

12 (c) DEPOSITS.—Any amounts borrowed by the Direc-
13 tor under this section shall be deposited in the Residential
14 Property Insurance Fund.

15 (d) REPAYMENT.—Any amounts borrowed under this
16 section shall be recouped, including interest on the bor-
17 rowed funds, in future chargeable rates for earthquake,
18 volcanic eruption, and hurricane coverage pursuant to the
19 plan of operation. The Secretary of the Treasury shall lib-
20 erally grant extensions in repayment schedules that the
21 Director advises the Secretary are necessary.

1 **TITLE III—NATIONAL EARTH-**
2 **QUAKE, VOLCANIC ERUP-**
3 **TION, AND HURRICANE EX-**
4 **CESS LOSS REINSURANCE**
5 **PROGRAM**

6 **SEC. 301. REINSURANCE PROGRAM.**

7 (a) AVAILABILITY.—

8 (1) INITIAL.—Upon the issuance of final regu-
9 lations establishing the plan of operation under sec-
10 tion 201, the Director shall make available, to any
11 private insurer participating in the Primary Insur-
12 ance Program under title II or any private reinsurer
13 which reinsures any such private insurer, excess re-
14 insurance coverage for direct and indirect losses that
15 are not eligible for insurance coverage under title II
16 and arise from an earthquake, a volcanic eruption,
17 or a hurricane.

18 (2) EXPANDED.—Upon the expiration of the 2-
19 year period beginning upon issuance of the regula-
20 tions referred to in paragraph (1), the Director shall
21 make available, to any private insurer or private re-
22 insurer, excess reinsurance coverage for direct and
23 indirect losses that are not eligible for insurance cov-
24 erage under title II and arise from an earthquake,
25 a volcanic eruption, or a hurricane. Each private in-

1 surer or reinsurer participating in the Primary In-
2 surance Program under title II shall purchase the
3 excess reinsurance coverage under this title.

4 (b) LIABILITY.—Excess reinsurance under this title
5 shall be offered as follows:

6 (1) INDUSTRY.—The Reinsurance Fund shall
7 be liable with respect to such reinsurance in the
8 event of an earthquake, a volcanic eruption, or a
9 hurricane after the insurance industry has incurred
10 losses and loss adjustment expenses from the single
11 event that are covered under the lines set forth in
12 section 302(a) and that exceed 8 percent of the in-
13 dustry countrywide subject net written premium, as
14 determined by the Director.

15 (2) FEDERAL GOVERNMENT.—After the insur-
16 ance industry has sustained losses described in para-
17 graph (1), the Federal Government shall be liable to
18 an individual private insurer or private reinsurer for
19 95 percent of qualifying losses in excess of 8 percent
20 of the private insurer's or private reinsurer's coun-
21 trywide subject net written premium.

22 (c) QUALIFYING LOSSES.—For the purposes of sub-
23 section (b), the term “qualifying losses” means losses and
24 loss adjustment expenses incurred by a private insurer or
25 private reinsurer from an earthquake (including losses and

1 loss adjustment expenses from foreshocks and aftershocks
2 attributable to the same event and including separate
3 earthquakes occurring within a 12-month period encom-
4 passing the event described in subsection (b)(1) whose in-
5 curred losses and loss adjustment expenses exceed 2 per-
6 cent of the private insurer's or private reinsurer's country-
7 wide subject net written premium), a volcanic eruption,
8 or a hurricane, reduced—

9 (1) by any collectible reinsurance recoverable;

10 and

11 (2) if the percentage of uncollectible reinsur-
12 ance arising from the event, as compared to total re-
13 insurance (other than earthquake, volcanic eruption,
14 or hurricane excess catastrophe reinsurance pur-
15 chased from the Federal Government) with respect
16 to the event is—

17 (A) more than 0 but not more than 5 per-
18 cent, by 0 percent of such uncollectible reinsur-
19 ance amount;

20 (B) more than 5 percent, but not more
21 than 15 percent, by 33.33 percent of the
22 uncollectible reinsurance amount above 5 per-
23 cent;

24 (C) more than 15 percent, but not more
25 than 25 percent, by—

1 (i) the amount determined under sub-
2 paragraph (B); and

3 (ii) 66.66 percent of the uncollectible
4 reinsurance amount above 15 percent; and
5 (D) more than 25 percent, by—

6 (i) the amount determined under sub-
7 paragraph (C); and

8 (ii) 100 percent of the uncollectible re-
9 insurance amount above 25 percent.

10 (d) OTHER ELIGIBILITY.—

11 (1) IN GENERAL.—Notwithstanding the re-
12 quirements of subsections (b) and (c), a private in-
13 surer or private reinsurer shall be eligible for excess
14 reinsurance coverage and reimbursement from the
15 Federal Government if the insurer or reinsurer has
16 incurred losses, prior to any reinsurance coverage,
17 from a single event that are included in the lines
18 covered in section 302(a) and that exceed 50 percent
19 of their countrywide subject direct written premium
20 or their countrywide subject net written premium,
21 whichever is greater.

22 (2) LIABILITY.—After the private insurer or
23 private reinsurer has sustained losses described in
24 paragraph (1), the Federal Government shall be lia-
25 ble for 95 percent of qualifying losses, as defined in

1 subsection (c), in excess of 20 percent of the private
2 insurer's or the private reinsurer's countrywide sub-
3 ject net written premium.

4 (3) LIMITATION ON LIABILITY.—The liability of
5 the Federal Government under this subsection shall
6 be limited to 200 percent of the private insurer's
7 countrywide subject direct net written premium and
8 600 percent of the private reinsurer's countrywide
9 subject assumed net written premium. In the event
10 a company is both a private insurer and a private
11 reinsurer, the liability limits shall be 200 percent of
12 their subject direct net written premium and 600
13 percent of their subject assumed net written pre-
14 mium. Intracompany or intragroup reinsurance ar-
15 rangements or contracts shall not be considered as
16 reinsurance in the calculation of insurance and rein-
17 surance subject direct or subject assumed net writ-
18 ten premium under this subsection.

19 (e) DEFINITIONS.—For purposes of this title:

20 (1) The term “subject assumed net written pre-
21 mium” means premiums received from other insur-
22 ance companies for reinsurance less ceded reinsur-
23 ance, for all lines of coverage listed in section 302.

24 (2) The term “subject direct net written pre-
25 mium” means the aggregate amount of recorded

1 originated premiums, other than reinsurance, issued
2 during the year whether collected or not at the close
3 of the year (plus retrospective audit premium collec-
4 tions) after deducting all return premiums and ceded
5 reinsurance premiums, for all lines of coverage listed
6 in section 302.

7 (3) The term “subject net written premium”
8 means direct and reinsurance premiums received by
9 private insurers and private reinsurers, less pre-
10 miums paid for ceded reinsurance, for all lines of
11 coverage listed in section 302.

12 (4) The term “uncollectible reinsurance” means
13 reinsurance proceeds due and payable in accordance
14 with the terms of the reinsurance contract which are
15 not paid within 12 months of the due date.

16 **SEC. 302. LINES OF INSURANCE.**

17 (a) COVERED LINES.—The Director shall provide re-
18 insurance coverage to private insurers for all of the follow-
19 ing lines of insurance appearing in the National Associa-
20 tion of Insurance Commissioners Fire and Casualty An-
21 nual Statement filed with the applicable State department
22 of insurance:

23 (1) Fire.

24 (2) Allied Lines.

25 (3) Farmowner’s Multiple Peril.

- 1 (4) Homeowner's Multiple Peril.
 - 2 (5) Commercial Multiple Peril.
 - 3 (6) Ocean Marine.
 - 4 (7) Inland Marine.
 - 5 (8) Earthquake.
 - 6 (9) Workers Compensation.
 - 7 (10) Other Liability.
 - 8 (11) Aircraft (All Perils).
 - 9 (12) Glass.
 - 10 (13) Burglary and Theft.
 - 11 (14) Boiler and Machinery.
 - 12 (15) Reinsurance.
- 13 Reinsurance coverage must be purchased for all covered
14 lines of insurance and in all affected seismic, volcanic, and
15 hurricane rating zones in earthquake-prone, volcanic erup-
16 tion-prone, or hurricane-prone States with the rates for
17 such coverage set by the Director, pursuant to section
18 303.
- 19 (b) OTHER LINES.—The Federal Government shall
20 provide reinsurance coverage to private reinsurers for all
21 of the lines of insurance referred to in subsection (a) as
22 well as other lines of insurance appearing in the National
23 Association of Insurance Commissioners Fire and Cas-
24 ualty Annual Statement, as determined by the Director

1 in the plan of operation and in consultation with the
2 Insurance and Reinsurance Advisory Committee.

3 **SEC. 303. RATES.**

4 (a) ESTABLISHMENT.—The Director shall establish
5 the rates for the excess reinsurance coverage and adjust
6 the rates when necessary using generally accepted actuar-
7 ial principles. To the maximum extent practicable, such
8 rates shall be actuarial rates which produce a minimum
9 degree of cross-subsidization over an extended period of
10 time consistent with the infrequency of catastrophic earth-
11 quakes, volcanic eruptions, and hurricanes. In setting and
12 adjusting the rates, the Director shall provide that, over
13 an extended period of time, expected expenditures from
14 the Reinsurance Fund under section 305(c) do not exceed
15 expected receipts of the Reinsurance Fund under section
16 305(b).

17 (b) CONSIDERATIONS.—In setting or adjusting such
18 rates, the Director shall also provide for a minimum de-
19 gree of cross-subsidization among classes of reinsureds by
20 reasonably reflecting the differences in risk of and vulner-
21 ability to loss from earthquakes, volcanic eruptions, and
22 hurricanes that would be subject to payment from the
23 Reinsurance Fund, by giving due consideration to the
24 following:

1 (1) The premium volume of the reinsured by
2 line of insurance under section 302(a) by seismic,
3 volcanic, and hurricane zone or State in which the
4 risks insured or reinsured by the reinsurer are lo-
5 cated.

6 (2) The proportion of the total expected amount
7 of payments for qualifying losses and loss adjust-
8 ment expenses by line of insurance under section
9 302(a) by seismic, volcanic, and hurricane zone or
10 State expected for each reinsured.

11 (c) LIMITATION.—Any rate classification system used
12 by the Director under this section shall be cost-effective
13 and shall not impose costs for the initial establishment or
14 the subsequent administration of the rating plan that are
15 disproportionate to the size of the premiums.

16 (d) QUARTERLY PAYMENT.—Premiums paid to the
17 Reinsurance Fund for reinsurance coverage under this
18 title shall be paid on a quarterly basis and shall be accu-
19 mulated in the Reinsurance Fund, to be managed pursu-
20 ant to section 305.

21 **SEC. 304. REINSURANCE CONTRACTS.**

22 (a) TERMS.—The reinsurance contracts issued by the
23 Federal Government pursuant to this title shall contain
24 terms and conditions similar to those generally used in
25 private catastrophic reinsurance contracts.

1 (b) JUDICIAL REVIEW.—Judicial review of a decision
2 of the Director regarding payment of claims shall be made
3 available pursuant to section 201(d).

4 (c) OBLIGATIONS.—All reinsurance contracts issued
5 under this title shall constitute obligations, in accordance
6 with the terms of such reinsurance, of the United States.
7 The full faith and credit of the United States is pledged
8 for the full payment and performance of such obligations.

9 (d) SINGLE ENTITIES.—Any private insurance and
10 reinsurance companies under the same ownership or man-
11 agement, as determined under the plan of operation, shall
12 be considered a single entity for purposes of this title.

13 **SEC. 305. REINSURANCE FUND.**

14 (a) ESTABLISHMENT.—There is established in the
15 Treasury of the United States the Reinsurance Fund for
16 the purposes of carrying out the excess loss reinsurance
17 program under this title.

18 (b) CREDITS OF FUND.—The Reinsurance Fund
19 shall be credited with—

- 20 (1) any reinsurance premiums received by the
21 Director under the excess loss reinsurance program;
22 (2) any amounts borrowed under section 306;
23 and
24 (3) any amounts earned under subsection (d).

1 (c) USE OF FUND.—The Reinsurance Fund shall be
2 available to the Director for—

3 (1) payments for qualifying losses and loss ad-
4 justment expenses under the excess loss reinsurance
5 program under this title;

6 (2) administrative expenses of carrying out the
7 program; and

8 (3) interest payments on amounts borrowed
9 from the Treasury under section 306, if any.

10 (d) INVESTMENT.—The Director shall request the
11 Secretary of the Treasury to invest any amounts in the
12 Reinsurance Fund in obligations issued or guaranteed by
13 the United States, as the Director considers appropriate.

14 (e) STATUS OF FUNDS.—Any reinsurance premiums
15 collected for deposit in the Reinsurance Fund shall be ex-
16 empt from all taxation now or hereafter imposed by the
17 United States, by any territory, dependency or possession
18 thereof, or by any State, county, municipality, or local tax-
19 ing authority, except that the insurance policies issued by
20 or in conjunction with the Federal Government pursuant
21 to this title shall be subject, where applicable, to State
22 insurance premium taxes.

23 **SEC. 306. BORROWING FROM TREASURY.**

24 (a) AUTHORITY.—To the extent that the accumulated
25 assets, including any return on investments, in the Rein-

1 surance Fund are insufficient to pay claims and expenses,
2 the Director shall issue, from time to time, to the Sec-
3 retary of the Treasury, notes and other obligations to
4 cover the insufficiency; except that the amounts of such
5 obligations outstanding at any one time shall not exceed—

6 (1) \$25,000,000,000 (or such greater amount
7 as may be approved by the President); and

8 (2) such sums as the Congress may provide act-
9 ing upon the recommendation of the Director.

10 (b) INTEREST RATE.—Obligations under subsection
11 (a) shall bear interest at a rate determined by the Sec-
12 retary of the Treasury, taking into consideration the cur-
13 rent average market yield on outstanding marketable obli-
14 gations of the United States of comparable maturities.

15 (c) DEPOSITS.—Any amounts borrowed by the Direc-
16 tor under this section shall be deposited in the Reinsur-
17 ance Fund.

18 (d) REPAYMENT.—Any amounts borrowed pursuant
19 to this section shall be recouped, including interest on the
20 borrowed funds, in future rates for excess reinsurance cov-
21 erage pursuant to the plan of operation. The Secretary
22 of the Treasury shall liberally grant extensions in repay-
23 ment schedules that the Director advises the Secretary are
24 necessary.



HR 1731 IH——2

HR 1731 IH——3

HR 1731 IH——4

HR 1731 IH——5